

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§ CASE NO. 21-30923-11
	§ HOUSTON, TEXAS
GRIDDY ENERGY, LLC,	§ TUESDAY,
ET AL,	§ MAY 25, 2021
DEBTORS.	§ 1:30 P.M. TO 2:31 P.M.

STATUS CONFERENCE (VIA ZOOM)

BEFORE THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES: SEE NEXT PAGE

(Recorded via CourtSpeak; no log notes)

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APPEARANCES VIA ZOOM:

FOR THE DEBTORS:

BAKER BOTTS, LLP
Robin Spiegel, Esq.
Chris Newcomb, Esq.
30 Rockefeller Plaza
New York, NY 10112
212-408-2545

FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS:

MCDERMOTT WILL & EMERY, LLP
Charles R. Gibbs, Esq.
Darren Azman, Esq.
2501 N. Harwood St., Ste. 1900
Dallas, TX 75201
214-295-8063

FOR KAREN PRESCOTT, ET AL:

FOX ROTHSCHILD, LLP
Trey A. Monsour, Esq.
2843 Rusk Street
Houston, TX 77003
713-927-7460

FOR THE US TRUSTEE:

STEVE STATHAM, ESQ.

(Please also see Electronic Appearances.)

1 HOUSTON, TEXAS; TUESDAY, MAY 25, 2021; 1:30 P.M.

2 THE COURT: All right. Good afternoon. We're here
3 in the Griddy Energy case. It is 21-30923. Appearances have
4 been made electronically.

5 I'm going to start by getting just a status report
6 from Ms. Spigel and from Mr. Gibbs, and we'll see where we are
7 planning to go today from their point of view. And then
8 anyone else that wishes to make a status report, feel free to
9 do so.

10 So, Ms. Spigel, why don't we start with you? And
11 then we'll go to Mr. Gibbs.

12 MS. SPIGEL: Thank you, Your Honor. Can you hear
13 me?

14 THE COURT: I can hear you fine, thank you.

15 MS. SPIGEL: Okay. Thank you.

16 I can't see you on the screen --

17 THE COURT: Oh --

18 MS. SPIGEL: -- but I'm --

19 THE COURT: -- that's -- no that's me not clicking
20 my camera. I apologize. Let's try that.

21 MS. SPIGEL: Okay.

22 THE COURT: Thanks for telling me.

23 MS. SPIGEL: No, no. Thank you. And good
24 afternoon. Thank you, Your Honor. Robin Spigel, Baker Botts,
25 counsel to the Debtor. Thank you for your time today.

1 There is one item on the Agenda today. But also, at
2 the end of the hearing, if it suits Your Honor, we'd also just
3 like to discuss the pending sealing motion very quickly.

4 The item on the Agenda today is the continued
5 Disclosure Statement hearing. As I had indicated to you, Your
6 Honor, on the 20th, we had a deal in principle with the
7 Committee, the Debtors, the pre-petition secured lenders, and
8 the Debtors' non-Debtor affiliates, as well as a settlement in
9 principle with the Attorney General's Office.

10 I'm pleased to report that we have been able to
11 negotiate definitive documentation related to all of the
12 settlements. On Sunday night, we filed an Amended Plan, as
13 well as a related Disclosure Statement and a revised proposed
14 Disclosure Statement Order, reflecting the global settlements,
15 and as well as partially reflecting the settlement with the
16 Attorney General's Office. The settlement with the Attorney
17 General's Office will be subject to a filing of a Rule 9019
18 motion for approval of that settlement agreement. And as I'll
19 explain in a bit, it will be subject to the Plan going
20 effective.

21 Before I go any further, though, I didn't know if
22 Mr. Gibbs wants to chime in.

23 THE COURT: All right. Mr. Gibbs, go ahead, please.

24 MR. GIBBS: Yes, Your Honor. Can you hear me okay?

25 THE COURT: I can. Thank you for improving your

1 phone.

2 MR. GIBBS: You're quite welcome. I'm glad that it
3 was fixed.

4 For the record, Chuck Gibbs. With me is my partner
5 Darren Azman from the law firm of McDermott, Will & Emery. We
6 represent the Official Unsecured Creditors Committee.

7 By way of chiming in, I would just agree with
8 everything you just heard from Ms. Spigel. We did work in
9 good faith, tried to get it filed at a time to hold a hearing
10 on Friday afternoon. That was impossible. It was also
11 impossible to get the definitive documentation filed early
12 enough Friday to have the Friday afternoon -- or the Monday
13 morning setting, rather. So we did work through the weekend
14 and what was filed reflects the agreement that's been approved
15 by my client and reflects the understanding that we've reached
16 with the Debtor.

17 And we are in agreement with the approval of the
18 Disclosure Statement, as amended, reflecting the Plan, as
19 amended, and as reflected in the Order, so.

20 THE COURT: Mr. Gibbs, thank you.

21 Before we allow Ms. Spigel to sort of go on with
22 what she wants to present, let me ask if there's anyone else
23 that has any wish to make any kind of an opening comment or if
24 we should just move right into the question of whether we're
25 going to give conditional approval.

1 If you do wish to make any opening comments, please
2 press five-star.

3 (No verbal response)

4 THE COURT: All right. Ms. Spigel, are you aware of
5 any outstanding unresolved objections to conditional approval
6 itself?

7 MS. SPIGEL: Your Honor, Karen Prescott and a
8 putative class of tort claimants had filed an objection to the
9 Disclosure Statement. I am not sure whether they're going to
10 continue to press that forward.

11 THE COURT: All right. Let's see. So I've got --
12 that may be her that wants to speak. Let's see.

13 Mr. Monsour, good afternoon.

14 (No verbal response)

15 THE COURT: I think you have your own line muted,
16 Mr. Monsour.

17 MR. MONSOUR: You're correct, Your Honor. Can you
18 hear me better now?

19 THE COURT: I can hear you at all now, so it's good.

20 MR. MONSOUR: Judge, we do have an objection. I do
21 have some concerns I'd like to share with the Court, but we're
22 not going to stand in the way of the Court approving the
23 Disclosure Statement, so I think we'll be able to get through
24 today fine.

25 But I -- there are a few points I do want to make to

1 the Court, you know, before we conclude the hearing.

2 THE COURT: All right. Are any of them going to go
3 to any amendments that you think are required to have
4 Disclosure Statement approval, or are they more going to be in
5 the nature of preservation of rights to confirmation and final
6 approval?

7 MR. MONSOUR: I think they're more in the context of
8 reservation of rights and confirmation approval, with the
9 exception of one disclosure item as it relates to the third-
10 party releases. And I can get into that now or I can wait,
11 Your Honor.

12 THE COURT: Well, I -- it seems to me that, if
13 that's going to be the only objection to the informational
14 portion of the Disclosure Statement, we probably ought to
15 address it sooner, rather than later, so that Ms. Spigel, when
16 she puts on her evidentiary record, if one is required, can
17 address it.

18 MR. MONSOUR: Here -- and it probably -- the only
19 disclosure -- let me kind of walk the Court through.

20 If I'm a claimant, and let's say I bought energy
21 from Griddy and Griddy billed me for \$50,000 during that ten-
22 day or five-day period of the freeze, and I can't pay that
23 money, but yet, my wife died of hypothermia here at the house,
24 then I may have a claim.

25 And under the Debtors' Plan, what it says,

1 basically, is, if I have a claim, I go into Class 5; and, if I
2 opt out of that claim, then I go to Class 4, and rights to
3 pursue insurance and, you know, those things are preserved
4 under the Plan.

5 The problem that I've got as the claimant is I can't
6 make an informed decision of consent and opt out of that
7 unless I know what the insurance policies say, if there's any
8 liability resulting that could -- that insurance would cover,
9 or if the officers or directors or third parties being
10 released have any culpability that's not being disclosed
11 during in Disclosure Statement. Other than that piece, the
12 rest of it really goes to confirmation, and that is whether or
13 not they can confirm these releases if I haven't really had
14 informed consent to know how to opt out or opt in because, as
15 a claimant, I need to know what I'm releasing.

16 If I decide to stay in Class 5, I know that the
17 claims Griddy has against me for the nonpayment of energy goes
18 away. But if I have to balance that against do I have claims
19 against Griddy or anyone else, there's maybe a tort liability,
20 what am I releasing by opting out, and I don't know until I
21 see the insurance policies.

22 And what we had proposed was show us the insurance
23 policies, we'll look at them confidentiality, we'll even limit
24 our liability recovery to the insurance policies, but let us
25 see them. And the Debtor felt like, at this time, it wasn't

1 appropriate to do it.

2 So, at some point, we're going to have to address
3 that issue because how can you ever give consent if we don't
4 know what we're releasing. And that was the fundamental
5 problem that I see with the disclosure, is they're not
6 mentioning anything in the Plan with respect to a Disclosure
7 Statement, with respect to what is being released for these
8 third-party participants.

9 And they're only contributing, in the aggregate,
10 about \$250,000 for these releases. And that's a confirmation
11 issue, whether or not that's adequate consideration or
12 gifting. That doesn't have to be heard today. But that's the
13 only disclosure point that I think might be missing in the
14 Disclosure Statement.

15 THE COURT: All right. Mr. Monsour, thank you.

16 Does anyone else have any informational issues that
17 you want to raise today, so that Ms. Spigel knows what the
18 universe of things is she has to deal with?

19 (No verbal response)

20 THE COURT: It looks like we're back to you,
21 Ms. Spigel, and that's the one issue.

22 I will tell you, from the Court's point of view, I
23 have some issues with the Form of Order, and we can go through
24 those, I've got them in detail. I don't have any issues that
25 the Court is going to raise about whether the information in

1 the Disclosure Statement is adequate. So you don't have to
2 deal with *sua sponte* informational issues from the Court. You
3 do need to deal with Mr. Monsour's, of course.

4 MS. SPIGEL: Okay. Thank you, Your Honor.

5 Should I go through my presentation, including the
6 settlements and I can get to Mr. Monsour's objection towards
7 the end, or do you want me to just go -- deal with that first?

8 THE COURT: Whatever you're happy doing.

9 MS. SPIGEL: Okay. Fine. I'm going to go through
10 the settlements, give some background here, and then I can
11 address his comments.

12 So, as I mentioned, since we were here last, we were
13 able to negotiate and draft definitive documentation with all
14 the parties. And I do want to thank all the parties involved
15 with the settlements because everyone worked really
16 tirelessly, including throughout the weekend, to make sure we
17 got everything on file by Sunday night. This is a continued
18 hearing which originally began on April 27th and was continued
19 to May 20th, to allow the Committee additional time to perform
20 its investigation, which it did.

21 At the April 27th hearing, I had gone through the
22 background of how we got here and the Plan and the standards
23 for approving the Disclosure Statement. So, unless Your Honor
24 wants me to repeat any of that, I was planning to just go
25 through the settlements from a high level and then walk

1 through any of the documents, the Plan and the Disclosure
2 Statement -- the Disclosure Statement, that you would like.

3 THE COURT: However you want to make your
4 presentation is fine.

5 MS. SPIGEL: Sure. So I just incorporate, you know,
6 the standards from the April 27th hearing that I went through.

7 With respect to the global settlement with the
8 Committee, the Debtors' pre-petition lenders, and the Debtors'
9 non-Debtor affiliates, some of the following terms that I'll
10 read are incorporated already into the Plan and others are
11 being read into the Record. And because, as I've said many
12 times in this case, we have limited resources, there will not
13 be a Plan Support Agreement or other type of agreement
14 documenting these other terms. So the parties have agreed
15 that we're going to rely on the Record. And the terms that I
16 read into the Record I'll flag, in particular, that aren't
17 necessarily yet reflected in the -- you know, through
18 documentation, but will be.

19 With respect to the settlement, the pre-petition
20 secured lenders agree to waive a portion of their claims that
21 is attributable to both principal and interest at the default
22 contract rate.

23 The non-Debtor affiliates will be responsible for
24 paying the pre-petition secured lender's professional fees and
25 expenses, which is up to 225,000, which we expect to pay in

1 full.

2 The pre-petition secured lenders will not seek
3 payment of any additional professional fees, except if there
4 is any unanticipated litigation or any contested matters that
5 cause those lenders or the collateral agent to incur fees and
6 expenses in excess of the 225. Then the lenders or the agent
7 can offset such amounts to the extent that a cash collateral
8 LC that they issued remains undrawn by the expiration of that
9 LC, which is that LC is in the amount of 300,000.

10 The approximately 1.448 million principal face
11 amount of the pre-petition secured lenders' claims that they
12 are foregoing will be contributed to the estates. And any
13 unused amounts, after claims of higher priorities are paid and
14 the costs of administering the estate are paid, will be shared
15 pro rata between the holders of the allowed Class 5 customer
16 claims that timely filed claims for electricity usage, in
17 accordance with the terms of the Plan, and holders of Class 4
18 other general unsecured claims.

19 Subject to court approval, customers that don't opt
20 out of the customer relief will have 45 days following the
21 effective date to change their minds and become Class 4, other
22 general unsecured creditors, for all purposes under the Plan,
23 other than in respect of voting, if such election is made
24 after the voting deadline.

25 The following is a little bit nuanced, but I'll try

1 to make it as simple as I can. We are discussing a settlement
2 with the PUCT regarding a \$500,000 letter of credit that it
3 drew pre-petition. If there's a settlement with the PUCT --
4 which we do expect to happen -- and the settlement is less
5 than 500,000 -- which we don't expect -- customers with claims
6 that are allowed under the Plan will share pro rata in
7 available cash with the holders of allowed Class 4 claims in
8 the amount of the difference between the 500 and whatever the
9 settlement amount is. But we do expect, if we get to the
10 settlement, that it will be 500.

11 Former customers are included in the third-party
12 releases in the Plan.

13 Non-Debtor affiliates will contribute their rights
14 with respect to certain to-be-agreed causes of action that
15 overlap with the causes of action that are deemed retained by
16 the Debtors under the Plan.

17 The Debtor and the Committee will jointly select the
18 Plan Administrator, and the Plan Administrator will be subject
19 to an oversight Committee that consists initially of two
20 members selected by the Committee and one member selected by
21 the Debtor. Certain actions of the Plan Administrator will
22 require consent of the members of the oversight Committee.

23 With respect to those, all of those terms are in the
24 Plan. With respect to those terms that are not yet in a
25 document that I'm reading into the Record that -- so the

1 parties have agreed. I'm actually going to read the terms
2 that we have agreed to.

3 Griddy Technologies, LLC, which is an affiliate of
4 the Debtor, will grant the Plan Administrator a limited
5 license to use its technology to assist the Plan
6 Administrator, to the extent needed, to wind down the Debtors'
7 estate, including in connection with the prosecution of claims
8 of action -- causes of action and claims reconciliation. This
9 limited license agreement will be included in the Plan
10 supplement.

11 The directors and officers will provide reasonable
12 assistance to the Plan Administrator in connection with the
13 prosecution of causes of action and claims reconciliation on
14 terms and conditions to be agreed, which will include that a
15 portion of their time will be uncompensated. The terms of
16 that arrangement will be include in the Plan supplement, as
17 well.

18 Directors, other than the independent director, will
19 waive directors' fees for services rendered after May 31st.
20 If the case is extended beyond July, which we hope that it
21 will not be, such directors' fees, subject to cost allocation
22 with the affiliates, are to resume prospectively only.

23 Subject to the Court approving the Disclosure
24 Statement, the Committee, the Debtors' pre-petition secured
25 lenders, and the Debtors' non-Debtor affiliates agree to

1 support the Plan and not take any action to impede or
2 otherwise delay confirmation or consummation of the Plan.

3 The parties also agree to work cooperatively with
4 one another to get the Plan confirmed and consummated it, and
5 use good faith efforts to work cooperatively on all other
6 matters that arise in the case.

7 In addition, I also want to note, just because
8 Griddy has received so much negative attention, that I think
9 it's also important to put on the Record that the global
10 settlement is not an admission of liability or wrongdoing by
11 the Debtor or any of the affiliates or the pre-petition
12 secured lenders. Rather, it's -- it reflects a settlement and
13 compromise that's intended to resolve the issues by and among
14 the various parties, in order to allow the Debtor to proceed
15 to confirmation, which the Debtor believes is in the best
16 interests of all the stakeholders.

17 Unless Your Honor has any questions, I can move on
18 to the settlement with the Attorney General's Office.

19 THE COURT: No, I think that's fine. Thank you.

20 MS. SPIGEL: Thank you.

21 As I mentioned, we intend to file a 9019 motion to
22 approve a settlement agreement with the State of Texas in the
23 near term, but the settlement would not go effective until the
24 Plan goes effective because certain components of that
25 settlement agreement are directly tied to the Plan.

1 Since the petition date, the Debtor and its parents
2 have worked in good faith with the State of Texas, by and
3 through the Attorney General, to address issues related to the
4 Debtors' former customers that occurred as a result of the
5 February 2021 winter storm event. The settlement agreement
6 that we've arrived at provides for, among other things:

7 Inclusion of various provisions in the Plan; namely,
8 that the customer class treatment didn't change from what's
9 been filed, meaning that those participating customers will be
10 released from their obligations to the Debtor, and those same
11 customers who paid for electricity during the winter storm
12 event will have an allowed claim against the Debtor for such
13 electricity usage if they file a claim, subject to the
14 Debtors' ability to object to the amounts, but not the nature
15 of the claim.

16 And any distributions under the Plan by the Debtor
17 to former customers that are returned to the Debtor as
18 undeliverable will be turned over to the Unclaimed Property
19 Division of the State of Texas Comptroller of Public Accounts,
20 pursuant to applicable Texas unclaimed property law, which
21 will enable the former customers, in perpetuity, to retrieve
22 such funds.

23 The state court action filed by the State of Texas
24 against the Debtor and its parents pre-petition will be
25 resolved, and the Debtor and its parent, including on behalf

1 of certain other parties, will agree to be enjoined from
2 taking certain actions and, upon the effective date, from any
3 -- will be enjoined from any collection or credit reporting
4 efforts for electricity use on February 13th through
5 February 19th, solely as it pertains to those participating
6 customers who don't opt of the customer releases within the
7 time frame provided for in the Plan or the confirmation order.
8 And that would be reflected in the consent judgment that would
9 be filed in the state court action.

10 A release by the State of Texas of all claims
11 against the Debtor and the Debtors' parents and their
12 respective officers, agents, representatives from claims and
13 disputes arising from or relating to the state court action,
14 including claims asserted therein and the civil investigative
15 demands. Under the state court action and termination of the
16 civil investigative demand upon the effective date of the
17 Plan.

18 Again, I think it's important to note that the
19 State, the Debtor, and its parent are each agreeing that,
20 neither the settlement, nor the related consent judgment
21 constitute or are admissions of liability or wrongdoing by the
22 Debtor or its parents or an acknowledgment by the Debtor or
23 its parent of the truth or correctness of the State's
24 contentions or allegations.

25 The Debtor believes that both settlements are very

1 significant steps forward in the Chapter 11 case.

2 And before I move on to, you know, the Plan and the
3 Disclosure Statement, does Your Honor have any questions?

4 THE COURT: I do not. We'll see if any parties do,
5 if you want.

6 Does anyone else have any questions for Mr. Spigel
7 on either of the announced settlements?

8 (No verbal response)

9 THE COURT: All right. Ms. Spigel.

10 MS. SPIGEL: Okay. Thank you, Your Honor.

11 The Debtor filed its Third Amended Plan and related
12 Disclosure Statement on Sunday night. Those documents can be
13 found at document -- and Docket Numbers 294 and 295, including
14 redlines against the prior versions. The revised order was
15 also filed on Sunday night and can be found at Docket Number
16 296. A redline was also filed accompanying that order.

17 And yesterday, the Debtor and the UCC jointly filed
18 a proposed letter from the UCC in support of the Plan that
19 would be included in the solicitation package, subject to Your
20 Honor's consent.

21 With respect to the original (indiscernible) related
22 to the original Disclosure Statement, the only objection
23 that's left is from Ms. Prescott. Did Your Honor want to go
24 through the Plan and the Disclosure Statement revisions or
25 should I address Mr. Monsour's concerns at this point?

1 THE COURT: So let me ask you one question about how
2 the Plan functions, and then I don't see a reason to go
3 through the visions, since what I looked at was the new one
4 and not the old one.

5 If I'm a member of Class 5 and if I opt out, I then
6 become a member of Class 4. I think there's a little
7 confusion in the order, though, and I just want to be sure
8 I've got this right. If I'm a member of Class 5, and I don't
9 opt out, but I do vote "no," then I'm still a member of
10 Class 5. Is that right?

11 MS. SPIGEL: No. If you vote no as a Class 5 claim
12 holder, you automatically become a Class 4 claim holder, which
13 is why the ballot has both Class 5 --

14 THE COURT: Okay. Well, that's what --

15 MS. SPIGEL: -- and Class 4.

16 THE COURT: Then that's what concerned me because
17 that means you've --

18 MS. SPIGEL: Okay.

19 THE COURT: -- guaranteed, by not allowing anyone to
20 vote no, that Class 5 votes yes, and I don't think you can
21 say, if you vote no, we're taking you out of the class;
22 therefore, we, by definition, have a consenting impaired
23 class. People have to be able to vote no within the class at
24 some point, don't they?

25 MS. SPIGEL: I don't think that they have to vote

1 no --

2 THE COURT: Well, no --

3 MS. SPIGEL: -- in the --

4 THE COURT: -- if they want to --

5 MS. SPIGEL: -- in the class.

6 THE COURT: If --

7 MS. SPIGEL: If they vote no --

8 THE COURT: If somebody wants to vote no so that
9 Class 5 doesn't become a consenting -- you've forced Class 5
10 into always being a consenting impaired class because anyone
11 that votes no, you're moving them out of the class. And I
12 understand that, if they want to opt out of the releases, but
13 I don't understand how you can do that if they simply want to
14 vote no because now we no longer have a vote. We now have a
15 fiat that this is a consenting impaired class.

16 MS. SPIGEL: I'm not aware of anything that would
17 preclude a consenting impaired class. But if they vote no,
18 then -- and they don't opt out of their releases, I would
19 think that that would be -- to me, that doesn't make sense.
20 It would make sense for them to be in Class 4 and be another
21 general unsecured claim.

22 THE COURT: Fair enough. But people get to vote --
23 what if somebody just wants to vote no because they don't like
24 the Plan and they think their vote will count more in Class 5?
25 I just don't see how we can fiat in that we have a consenting

1 impaired class, which is what you've done. And that explains
2 why I'm having trouble interpreting it because I didn't think
3 that it would be possible to create a class under the Code
4 that, by definition, is both consenting and impaired. But
5 that's what you've by saying, if you vote no, we're taking you
6 out of the class.

7 I do get it that somebody should have the option to
8 move into Class 4 if they want to. They opt out of the
9 release, now they're in Class 4, they get a vote in Class 4,
10 fine. But you're saying, if they don't opt out of the
11 release, so they're agreeing to the release. Can't they still
12 vote no to the Plan? Why are we moving them?

13 MS. SPIGEL: Well, I'm not sure that (indiscernible)

14 MR. GIBBS: Your Honor, this is --

15 MS. SPIGEL: Go ahead.

16 MR. GIBBS: I apologize, Ms. Spigel, I didn't mean
17 to interrupt you.

18 To me, it's more a question of the no vote would
19 still count for purposes of tallying the voting to determine
20 whether we've carried in numerosity and in dollar amount, but
21 the no vote is really a signal that their treatment becomes as
22 if they are in Class 4. That's the treatment and the result
23 of their no vote. But they can -- I don't think that it
24 emasculates the vote. You still count the yeses and nos.

25 THE COURT: Well, you -- I don't see how you count

1 -- I don't think that's the way it's written, we'll start with
2 that. But why can't somebody have an allowed Class 5 claim,
3 they don't opt out of the release, and they vote no? Then
4 they get the release by a matter of law because, you know,
5 they're part of a consenting impaired class. I just -- I have
6 a -- and maybe this is sounding like a theoretical problem,
7 and I don't mean to be terribly theoretical about it. But
8 there's just a fundamental problem of creating something that
9 guarantees an outcome.

10 And I think that's -- maybe what Mr. Gibbs says is
11 right, that it's a no vote, but we're going to -- they will
12 receive alternative treatment if they vote no? What if they
13 just want to vote no, but they want -- they're not opting out,
14 they're giving the release, they're getting all those rights.
15 They just don't like the Plan and want to vote no to it. Why
16 should they be forced into Class 4?

17 MS. SPIGEL: Because the consideration as to giving
18 that release is as part of Class 5. So, if --

19 THE COURT: They're getting a release, they didn't
20 opt out.

21 MS. SPIGEL: But --

22 THE COURT: They don't like the consideration, they
23 voted no, but they would rather have that, if a Plan is going
24 to be confirmed, than the paltry amount they're going to get
25 in Class 4. They want to vote no to the Plan, but they'll

1 take the release. You've said, if they vote no, they don't
2 get the release and --

3 MS. SPIGEL: But if they --

4 THE COURT: -- but they didn't --

5 MS. SPIGEL: I mean --

6 THE COURT: -- opt out --

7 MS. SPIGEL: -- you're right --

8 THE COURT: -- of the release.

9 MS. SPIGEL: -- the way the Plan --

10 THE COURT: Yeah, they didn't opt out of the
11 release, right? I'm uncomfortable. We can get to that, but
12 at least I now understand it. I don't see how we can do it
13 the way it's currently written. Their vote doesn't control
14 whether they have an allowed claim or not, it can't. We
15 aren't going to give people one claim if they vote no and
16 another claim if they vote yes. That occurs with their opting
17 in and opting out, I've got that. But it doesn't -- it can't
18 affect their treatment. They have the right to say, "I don't
19 like your damn Plan, but if it's going to get confirmed, I
20 want the release under it."

21 MS. SPIGEL: So, just to be clear, Your Honor,
22 you're saying that you would like the -- well, that the Plan
23 should say that the former customers who want to get the
24 releases but don't like the Plan, if they vote no they're not
25 automatically in Class 4, it's only those people who opt out

1 of the releases would go into Class 4.

2 THE COURT: I -- well, I think so, unless you can
3 explain to me how it is consistent with the Code to create a
4 class -- I mean, let's leave your case and go to some
5 hypothetical case, where you say, okay, we're going to have a
6 class of unsecured creditors and they're going to get this
7 treatment and everyone has the right to this treatment, but if
8 you vote no, you're going to get that treatment and you're no
9 longer going to be a member of the unsecured creditor class.
10 So now we've guaranteed in every case, in a theoretical way,
11 that the only people that count for voting are yes votes
12 because, otherwise, we'll move you out of the class. So we've
13 eliminated voting under the Bankruptcy Code. It just can't be
14 this way.

15 MS. SPIGEL: I don't think anything in the
16 Bankruptcy Code requires people to be able to say no in a
17 class; however, I don't think that we necessarily have an
18 issue with the change over.

19 THE COURT: I think it does require them to be able
20 to say no because you count votes two-thirds/one-third.
21 You've just eliminated the ability for there to be any no
22 votes, so I do think it would violate the Code. And if you
23 don't care, then let's at least comply with my view of the
24 Code, even if it isn't your view, and eliminate that risk for
25 everybody.

1 I don't think it's a very -- it's not a significant
2 change, I don't need to re-review it. But you'll see it when
3 we get to the Disclosure Statement Order. And so -- but we
4 can go ahead now and --

5 MS. SPIGEL: Thank you.

6 THE COURT: I think that's the only structural
7 question that I had, and I did misunderstand what was going on
8 there, so I'm glad I asked you. But if you want to proceed
9 then to go ahead and address Mr. Monsour's concerns, that
10 would be helpful.

11 MS. SPIGEL: Yes, Your Honor. By the way, I do
12 think -- well, the ballots are attached to the Order, but I
13 think that the ballots already need to be revised slightly to
14 accommodate that change.

15 So, with respect to Mr. Monsour's concern, I need to
16 take a step back because, on April 1st, this Court asked
17 counsel for Ms. Prescott what the Debtor could have done, so
18 that their clients, the tort claimants, would have -- what the
19 Debtor could have done, so that their clients would not have
20 lost power, right? And counsel was unable to answer that
21 question and still has not.

22 There is some presumption here that there are valid
23 tort claims and we would say that there are not valid tort
24 claims, that it's not even a threshold issue, that there is
25 nothing to disclose and that those parties do not -- like they

1 have baseless claims against the company.

2 There has been no explanation has to how any alleged
3 injuries -- which we have no idea what those are, including
4 with respect to mister -- Ms. Prescott's alleged injuries --
5 could be causally linked to the Debtor, right? Because, as a
6 retail electric provider, Griddy was precluded from
7 participating in the generation, transmission, and
8 distribution of electricity, right? Griddy purchased
9 electricity from ERCOT, but it had no knowledge of which
10 generators provided the electricity to ERCOT, right? It acted
11 as a market access tool, right? It marketed and sold
12 electricity.

13 And as I said, it wasn't involved in generation,
14 transmission or distribution, and it was precluded under state
15 law from doing so, right? The obligations to its customers
16 are defined and limited to those set forth in the rules of the
17 PUCT because it had exclusive jurisdiction to determine
18 compliance with those rules. In other words, there was no
19 duty to customers that was breached and there was no causation
20 related to alleged injuries.

21 And we're talking about, you know, a Disclosure
22 Statement here. And in connection with insurance rights, I
23 mean, I am not aware of any obligation to provide an insurance
24 policy to purported claimants, which, if we did provide it,
25 could lead to, you know, essentially depleting assets of the

1 estate based on baseless claims. There's no claim or
2 controversy before the Court related to tort claimants.

3 So, you know, when they talk about the fact that
4 there should be some information related to insurance in the
5 Disclosure Statement, I just think that there's no basis here
6 to include any information related to insurance. The fact is
7 that the customer releases and customer class are totally
8 voluntary, right? They can choose -- and the Plan is clear
9 that the release is of everything, including tort claims. It
10 would be -- is it -- it is a release, give and get the release
11 or don't. You don't have to give and get the release. You
12 can opt into Class 4, as we just discussed, and then you can
13 assert your claim.

14 So I don't think that there's any further
15 information that needs to be in the Disclosure Statement
16 related to torts or related to insurance that the company has.
17 I don't think it's appropriate, I think it emboldens tort
18 claimants when it shouldn't. And I think that it would
19 unnecessarily deplete assets of the estate, to the extent that
20 they have to spend, you know, money on defense costs related
21 to these types of claims that have no causal relationship to
22 the Debtor.

23 I also think that the tort claimants never responded
24 to Your Honor's -- what I think is a fairly simple question:
25 How did we -- what is -- how did Griddy cause those injuries?

1 And I don't think that they should be able to get additional
2 information in the Disclosure Statement related to any of this
3 because it's unrelated to this case.

4 THE COURT: All right. Mr. Monsour.

5 MR. MONSOUR: Thank you, Your Honor.

6 The claim exist -- the elements of the claim are
7 duty, breach, injury, and injury resulting from the breach.
8 Your Honor, the claimants bought energy from Griddy; Griddy
9 didn't deliver energy during a period of time, their injuries
10 resulted. There is a claim. The question is really not is
11 there a claim; the question is: Does Griddy have a defense or
12 is there liability on that claim? And I think they're being
13 meshed together. I think Griddy -- I think the claimants have
14 a claim. It's whether or not, ultimately, Griddy is going to
15 be held culpable or proportionately with the other parties up
16 the food chain who would be held culpable.

17 But that doesn't mean that the claimant doesn't have
18 the right to look at insurance because we don't know what the
19 insurance policies say. If the insurance policies say we
20 don't -- you know, we don't have any liability, then the
21 claimant -- it's very simple for the claimant. They don't opt
22 out and they're going to get the claims that Griddy has
23 against them released and they stay where they are.

24 But you know, depleting the assets of the estate,
25 there are a lot of cases where there are tort claims. We're

1 not looking to deplete the assets of the estate. The
2 insurance company is going to pay all of the expenses and
3 costs of the litigation if we were to pursue the litigation.
4 But we've got to know what's there, in order to make an
5 informed decision. And all I'm saying is let us see what's
6 there, and if there's nothing there, we move on. If there's
7 something there, then we can have the fight whether or not
8 there's causation.

9 But the causation exists by the mere fact that Duty
10 [sic] sold the energy to the customer and Duty didn't deliver
11 that energy for five days.

12 THE COURT: I am over --

13 MR. MONSOUR: They breached it.

14 THE COURT: I am overruling --

15 MR. MONSOUR: They --

16 THE COURT: -- the objection by the tort claimants.
17 It is premised on the Debtor failing to deliver energy. The
18 Debtor was prohibited by state law from delivering energy, it
19 couldn't deliver energy. It had no ability ever to deliver
20 energy, it would have been illegal to deliver energy, all as a
21 matter of law, which means that the claim as stated fails,
22 which means this is extraneous information, which means that a
23 reasonably informed voter doesn't need to it to make a
24 decision, so I'm overruling the objection. I'm going to
25 approve the Disclosure Statement without that information.

1 All right. I want to go through the proposed form
2 of order. This is a conditional approval hearing. I don't
3 really even need evidence at a conditional approval hearing.
4 It's the Court's review of the Disclosure Statement. I do
5 think the Disclosure Statement contains adequate information.
6 I'm concerned about some of the provisions in the order, I'm
7 putting it up on the screen. And I've made -- and I hope that
8 you will excuse whatever might be rude in my comments. But
9 essentially, I'm showing you the redline of comments to
10 myself, Ms. Spigel. And please pardon it if I talk to myself
11 more openly than maybe I should. It's just going to be easier
12 to look at it this way.

13 MS. SPIGEL: Thank you.

14 THE COURT: So what I did is I took your PDF version
15 and I downloaded it into Word, so you'll see a couple of
16 formatting issues that are just from that downloading feature.

17 I don't have any jurisdiction -- if you -- do you
18 have somebody that can take notes on this for you, Ms. Spigel.
19 And just some of these are obvious changes. I don't have any
20 --

21 MS. SPIGEL: Yes. Thank you, Your Honor.

22 THE COURT: All of our jurisdiction arises under 28
23 U.S.C. 1334. The standing order gives no jurisdiction, it
24 only implements 28 U.S.C.'s authority provision. So I'm
25 taking that out.

1 I have given you July 8th for the hearing on the
2 Disclosure Statement and Plan. I've left your other dates in
3 this section. But in a couple of minutes, you're going to see
4 that I think some of your timing may not work, which just
5 means we're going to need to move some dates potentially, and
6 you'll see that as we get through it. But July 8th at 9, I
7 can do the combined hearing.

8 MS. SPIGEL: Thank you.

9 THE COURT: I don't believe that a party that is
10 objecting to a Plan must propose how to resolve their own
11 objection, I think that's your problem. So I'm not going to
12 make people propose a solution to a Plan. I've taken out
13 Subparagraph, I believe it was (e).

14 And then I'm not going to make people serve their
15 objections. Once they file it with CM/ECF, everyone gets the
16 CM/ECF filing. And given the tight deadlines, I don't think
17 we need to have them -- then have to also get things served
18 out by mail.

19 So this is the issue we talked about. I don't think
20 the vote can determine whether they have an allowed classified
21 claim. They either have an allowed classified claim or not.
22 I don't need to re-review it once you fix that provision that
23 we talked about. But you'll need to fix this section. People
24 get to vote no. If they opt out, they don't have a Class 5
25 claim, but if they vote no, they're voting no, and they still

1 have whatever their allowed Class 5 claim was before they
2 voted.

3 I'm going to hold the ERCOT 3018 motion along with
4 -- on June 29th at 9:00 a.m. I think that was the -- you said
5 on or before, so I set it on that date and gave you a time for
6 it.

7 MS. SPIGEL: Thank you, Your Honor.

8 I just also want to be clear, it's not certain that
9 we will be using that date --

10 THE COURT: Again --

11 MS. SPIGEL: -- but we will be on that date.

12 THE COURT: -- I know it's not certain you need it,
13 but by the time we get the objection, it's going to be too
14 late to set it, so I'm going to have that date in here --

15 MS. SPIGEL: Okay.

16 THE COURT: -- so that people will know what it is.

17 MS. SPIGEL: Thank you, Your Honor.

18 THE COURT: And I just don't think I should order
19 myself to do things, so I'm just telling you what I will do,
20 not what I shall do, so.

21 MS. SPIGEL: Fair.

22 MR. GIBBS: Your Honor, this is Chuck Gibbs. Can
23 you hear me?

24 THE COURT: Yes, sir.

25 MR. GIBBS: Would it be possible to consider as an

1 alternative to this hearing on the Plan the afternoon on the
2 7th, rather than morning of the 8th. If you can't
3 (indiscernible) I'm supposed to take off on a vacation with my
4 wife at 9:00 o'clock on the 8th, is when my flight leaves, and
5 I think there's one flight a day. So, if possible; otherwise,
6 I'll go on the vacation later and fly the next day.

7 THE COURT: I could do it at 3:00 o'clock on the
8 7th.

9 MR. GIBBS: I can say I sprung that on counsel for
10 the Debtor and the other parties, and if anyone else has a
11 problem, I'll make changes, but I -- if it's possible, it
12 would, for the moment, keep me out of the doghouse, but I
13 usually end up back there anyway.

14 THE COURT: Okay. In Paragraph 18, I'm not going to
15 reserve rights for the Debtor that I don't preserve for
16 everyone. So anyone that wants to designate ballots, their
17 rights are preserved.

18 This is a change I made a couple of times because I
19 think the definition was misplaced. And if I'm reading that
20 wrong, tell me. But I think that it's four o'clock or seven
21 days, whichever is later, and that then becomes the cure
22 objection deadline. So I think it was a misplaced definition.

23 MS. SPIGEL: I think you're right. Thank you, Your
24 Honor.

25 THE COURT: Okay. I'm not going to include 26, I

1 just think that's too dangerous. I shouldn't be adopting
2 parts of the Plan as part of an order before confirm the
3 Plan. So whatever rights you have under the law you have
4 under the law. So I took that out.

5 This is basically the same issue, that the
6 objections have to get filed, not served. Service will occur
7 by CM/ECF on everyone that's listed there.

8 I didn't understand this sentence, the last sentence
9 right here, just to put it in context. It says there's a
10 combined hearing. Then it says:

11 "In accordance with the Plan, the Plan may be
12 modified, if necessary, before, during, or as a result of the
13 combined hearing without further action by the Debtor and
14 without further notice to or action, order, or approval of the
15 Court or any other person or entity."

16 How in the world do we do that? Because I think
17 maybe that sentence should just come out. But it seems to me
18 you've got to move to amend, maybe it's oral. I've got to
19 approve it. And this is saying this can happen sort of
20 without you or me worried about it. And I just -- unless I'm
21 misunderstanding the purpose of the sentence, I think it comes
22 out.

23 MS. SPIGEL: I suppose there are certain
24 modifications that could be made without -- that conform to
25 1127, but don't require -- but don't require court approval.

1 But I agree that it's not drafted artfully.

2 THE COURT: Okay.

3 MS. SPIGEL: We can just --

4 THE COURT: Probably just taking it out.

5 MS. SPIGEL: We can take it out, yeah.

6 THE COURT: Okay.

7 MS. SPIGEL: Yeah.

8 THE COURT: This is the same definitional issue that
9 we had before.

10 MS. SPIGEL: Thank you.

11 THE COURT: I don't think the word "later" belongs
12 here. If they've made the election before, they've made it
13 before, so I think it just comes out.

14 I'm now into solicitation procedures. And so I
15 don't think your voting time works. This is going to be
16 pretty easy to fix once you figure out what you need and we
17 can move a date or two. But the way that this is written is
18 you've got up until seven days before confirmation in order to
19 file an objection. And so I did these based on the date I've
20 given you. But that meant that -- I'm sorry, the voting
21 deadline to object.

22 So the voting deadline is the 25th, so that means
23 that you have to resolve all objections by the 23rd, but you
24 don't have to object to them until the 18th, which is a
25 Friday, and you serve them by U.S. Mail, and they're received

1 on Tuesday. And that means we have to get an order entered on
2 Wednesday. It just doesn't work. And I need you to figure
3 out how the timing can work, so that you can get to an orderly
4 confirmation hearing, you can make the objections you need,
5 and somehow people have due process time to file an objection.
6 And I have to have an opportunity to rule on the objection.
7 So --

8 MS. SPIGEL: Okay.

9 THE COURT: -- unless I'm missing these dates, what
10 I've written here on the redline is what you've proposed. And
11 if that's right, it doesn't work, and I'll let you figure out
12 what does, but ...

13 MS. SPIGEL: Okay. We can just propose different
14 language.

15 THE COURT: Yeah. And it may be that we can move
16 the voting deadline and maybe you can move up your objection
17 deadline. I'm going to let -- I'm happy to talk through it
18 right now, but I think probably you need to sit down with a
19 calendar and figure out what you need, now that you got real
20 dates. And instead of -- probably, if you don't mind, instead
21 of putting in, you know, it will be X number of days before,
22 now that you have real dates, why don't you put the real dates
23 on in here, and then everyone will be able to see what needs
24 to happen.

25 MS. SPIGEL: I think I can probably simplify all of

1 this by just doing what we've agreed to do with ERCOT.

2 THE COURT: Sure. That may work.

3 MS. SPIGEL: Okay. Well, we can propose language.

4 THE COURT: And then, in Paragraph 3(e), I don't
5 think this works, either. So, if we allow a claim on
6 Wednesday, which is the date you've said I need to allow the
7 claim on, and the voting deadline is Friday, how does Stretto
8 get out something and people have an opportunity to vote by
9 four o'clock, and then it's all counted. It just -- it's an
10 impossibly short period of time, I think.

11 MS. SPIGEL: Okay. We'll go back through that. But
12 this is not an issue. We'll make sure that there's sufficient
13 time.

14 THE COURT: Okay. This is the same issue and you
15 don't need to serve people, you just need to file things.

16 So, and filed and scheduled claims for establishing
17 claim amounts, I didn't understand what (iii) that wasn't (I)
18 because, if the Debtor settles and agrees with the creditor,
19 fine; if we ordered it, fine. But otherwise, I don't know how
20 the Debtor does it in any way that isn't also signed up by the
21 creditors. So I think (iii) comes out, but maybe I'm missing
22 the point.

23 In 2(c), the Debtor can't determine that a claim
24 that is filed in a dollar amount doesn't count because the
25 Debtor doesn't think it's liquidated. You've got to object to

1 it. You don't have the unilateral right to disallow a claim.
2 If somebody says I'm owed a million dollars and you don't
3 object to it, they're owed a million dollars, and you don't
4 get to say not really, we don't think that's been properly
5 liquidated or liquidated at all. So I'm going to require that
6 change to be made.

7 Same problem in Subparagraph (c) with one that's
8 partially liquidated and partially unliquidated.

9 Subparagraph (e) is the allowed Class 5 claim
10 problem that just repeats itself there.

11 So the ballots, I'll tell people they have to cast
12 their ballots by 5, and everything else says they've got to
13 cast their ballots by 4. So this is probably 30 changes. I
14 didn't mark them; I just marked the 1. I don't care between 4
15 and 5, I just want to be sure the ballots are the same as the
16 order.

17 Wait a minute. I think I've -- that may be the end
18 of the comments. Hold on just a second.

19 (Pause in proceedings)

20 THE COURT: On the nonvoting status, this may not
21 matter because of who the nonvoting folks are, but they didn't
22 end up with opt-out rights, I don't think. And I think,
23 technically, you want to be sure that, even if they don't
24 intend to exercise them, that they have opt-out rights for the
25 nonvoting parties.

1 MS. SPIGEL: I think the Plan only provides for
2 those people who vote on the Plan are subject to the third-
3 party releases.

4 THE COURT: Well, you impair someone if you take
5 away their right. And so, if you're going to make them give
6 the release, you've impaired them. You have to give them the
7 option not to give a release.

8 MS. SPIGEL: But they wouldn't be nonvoting, then
9 they would get a ballot.

10 THE COURT: No, they're --

11 MS. SPIGEL: Am I --

12 THE COURT: This --

13 MS. SPIGEL: -- misunderstanding you?

14 THE COURT: Yeah, this is an unimpaired class of
15 creditors. I think you want those folks given releases. The
16 only way that I can make somebody that is unimpaired give a
17 released is if they have the right not to give a release, or
18 lease I've suddenly impaired them by making them give a
19 release.

20 MS. SPIGEL: If you'd give me one second, Your
21 Honor.

22 THE COURT: Sure. I think these are like your
23 secured creditors. I don't think this is an issue, other than
24 a technical one, where I can't impose releases without giving
25 people opt-out rights.

1 MS. SPIGEL: Well, the Plan -- I mean, I'd like to
2 change the Plan then because the Plan provides that, you know,
3 the people who are giving releases are holders of the claims
4 and the class entitled to vote on the Plan. So, if they're
5 not voting, then they don't --

6 THE COURT: Oh, okay.

7 MS. SPIGEL: They're not (indiscernible).

8 THE COURT: Oh, okay. Then that's my fault.

9 MS. SPIGEL: (Indiscernible).

10 THE COURT: Yep. Then, if these folks aren't giving
11 releases, that's fine. That will -- you can ignore that
12 comment. Thank you.

13 MS. SPIGEL: I --

14 THE COURT: You're right; I'm wrong.

15 MS. SPIGEL: I'd rather change -- I'd rather change
16 the Plan, if Your Honor is amenable, and make that change.

17 THE COURT: Okay. That's it. Those are all of my
18 comments.

19 So what I would suggest you do, since some of that
20 is just you working through a calendar and figuring out hgow
21 do to it -- I don't think we need another hearing, unless
22 somebody else believes we do need another hearing. What I
23 would request is, is that you upload a revised form of order
24 and a revised Plan. The revised Plan only needs to be revised
25 to deal with this voting issue for Class 5. And then the

1 revised form of order needs to deal with, you know, the
2 different issues I've shown you, unless you want another
3 hearing. I'll just ask you to contact Ms. Do, and she'll
4 bring it in to me, and I should be able to do it the same day
5 that you get it filed, which I'm assuming will be overnight
6 tonight, and probably tomorrow I'll be able to sign the order.

7 I know that my comments aren't extensive, but I just
8 want to be sure that the public has a clear understanding of
9 what we're doing and that, you know, there's no ambiguity
10 about how these different deadlines are going to work in
11 there. Do you want another hearing or are you okay just doing
12 it with submission?

13 MS. SPIGEL: No, thank you, Your Honor. Thank you.
14 You've been generous with your time. I'm fine doing a
15 submission.

16 THE COURT: So let me ask Mr. Gibbs. Does the
17 Committee -- my preference would be for you to simply work
18 informally with the Debtor to be sure you're happy and trust
19 that, when they file it, they -- you're not going to object.
20 But if you want to formally participate in the submission,
21 that's fine. What do you need?

22 MR. GIBBS: Well, we'll work with them in good
23 faith, which has been done fine that way and we'll continue to
24 do so.

25 And for the Record, on behalf of the Committee, I

1 wanted the Record to reflect that the summary of the
2 settlement that Ms. Spiegel read into the Record, as well as a
3 summary of the terms that are not reflected in the Plan as
4 yet, was complete and accurate and consistent with our
5 understanding of the agreements.

6 THE COURT: Thank you, Mr. Gibbs.

7 Mr. Gibbs, with respect to the letter that you
8 filed. I have reviewed the letter --

9 MR. GIBBS: Yes, sir.

10 THE COURT: I have reviewed the letter -- I have
11 reviewed the letter. It is my belief under applicable law
12 that I cannot and should not control your communications with
13 your clients. And so, to the extent that the Debtor has
14 agreed to include that letter from you to your clients in
15 their informational packets, I don't believe I play a role in
16 approving or disapproving of that.

17 MR. GIBBS: We're fine with that, Your Honor.

18 THE COURT: Thank you.

19 What else should we accomplish today? I really
20 appreciate all the hard work --

21 MS. SPIGEL: So --

22 THE COURT: -- everybody has put into this, by the
23 way. It's very helpful. Thank you all.

24 MS. SPIGEL: Thank you, Your Honor.

25 I think the one thing that we'd like to talk about,

1 if it's okay with you, is just some conceptual issues with the
2 sealing that was -- that we sought from Your Honor before we
3 had a global settlement. If that would be okay, we'd just
4 like to preview what we're thinking about that. I know we
5 have to respond to Your Honor by tomorrow. But if I could
6 turn the virtual podium to my colleague, Chris Newcomb, that
7 would be helpful.

8 THE COURT: Of course.

9 Mr. Newcomb, would you press five-star one time on
10 your phone, please? I see you. It will take me just a second
11 to get your line open.

12 Mr. Newcomb, is that you from the 646 area code?

13 MR. NEWCOMB: It is, Your Honor. Good afternoon.

14 THE COURT: Good afternoon.

15 MR. NEWCOMB: Again, for the Record, it's Chris
16 Newcomb of Baker Botts on behalf of the Debtor.

17 Your Honor, at the hearing on the 29th, April 29th,
18 you asked the parties to take another look at the material
19 that was redacted in the Committee's objections with respect
20 to the Disclosure Statement and the Debtors' motion to quash,
21 and you asked us to scale back the redactions to the extent
22 appropriate. And subsequently, you issued an order to confer
23 that instructed the Debtor and the Committee to discuss the
24 necessity for some of the redactions and see if -- and then
25 report back to you on sort of where we came out there.

1 And so we thought it would be helpful to address
2 those issues, if it's okay with Your Honor today, rather than
3 -- before we're scheduled to file something in the next day
4 or so.

5 THE COURT: All right. Sure. I'm not technically
6 prepared on that question, but it's not like I've forgotten it
7 either, but I haven't reviewed the stuff in the last day.

8 MR. NEWCOMB: Sure. Yeah, we just thought we'd sort
9 of preview sort of where we're headed, just so you can -- just
10 so you had a sense of what we're doing there.

11 Following the April 29th hearing, we reviewed the
12 information that was redacted and we worked to scale it back
13 based on what we believed were the appropriate, given the
14 understanding of the Bankruptcy Code and what Your Honor's
15 statements were on the Record. We have reached an agreement
16 with the Committee and the non-Debtor affiliates regarding the
17 redactions to the Committee's objections to the Disclosure
18 Statement and the motion to quash. We also consulted with the
19 U.S. Trustee's Office, and they didn't have any objection to
20 the approach that we took.

21 So, if the Court is agreeable, we can simply refile
22 those objections with the redactions and you can take a look.
23 I think you'll find that there's very little redacted now, and
24 what is redacted is simply some information regarding the
25 valuation of non-Debtor assets that the Committee alluded to,

1 and then also some sensitive data in the IP license agreement,
2 each of which we think is appropriate to redact.

3 THE COURT: So do you --

4 MR. NEWCOMB: The Committee also filed a --

5 THE COURT: Are you -- could you refresh my
6 recollection. Did I put you on a deadline for filing
7 something besides that?

8 MR. NEWCOMB: Yes, I believe the order said that we
9 should confer by yesterday and then we're supposed to file
10 something by tomorrow.

11 THE COURT: Okay. And you're going to be doing
12 that.

13 MR. NEWCOMB: Yeah. And that's with respect to the
14 two objections.

15 The Committee also filed a declaration of counsel in
16 support of the objections, and that attached a number of
17 exhibits, some of which were filed fully under seal. And some
18 of those sealed documents do pose some confidentiality
19 concerns.

20 The Debtor and the Committee and the non-Debtor
21 affiliates have gone back and reviewed those and we've come to
22 an agreement on what we think is the appropriate scope of, you
23 know, what should be sealed, what should be redacted in part,
24 and what can be unsealed in full. However, on those
25 documents, we thought it might make sense to do something a

1 little bit different. We'd like to propose an alternative
2 approach that we think would be a little less burdensome and
3 can avoid the parties having to get into the substance and the
4 exhibits.

5 Specifically, we proposed that, since the Committee
6 -- since the Court hasn't ruled -- hadn't ruled on the
7 Committee's Disclosure Statement objection and the Committee
8 is no longer pressing it, but they could simply withdraw those
9 documents, and you know, without prejudice to having to
10 refile, you know (indiscernible) to the Committee down the
11 line. And that would make it so that, you know, the Court
12 would no longer have to rule on the sealing of those
13 documents. The Committee and the non-Debtor affiliates are
14 both on board with that approach, and we raised it with the
15 U.S. Trustee, and they didn't have any issues with that
16 approach, either.

17 So I would note that the Court did rule on the
18 motion to quash previously, but we're not aware and we do
19 think that the Court was specifically alluding to those
20 documents or the information in those documents when it ruled,
21 so we think it still works procedurally.

22 THE COURT: All right. Does anybody else want to
23 address the redaction question?

24 (No verbal response)

25 THE COURT: Okay. Look, I thank you. Now that the

1 objections have resolved, the issue takes on less importance
2 to me, now that the parties have agreed on appropriate
3 redactions, the issue takes on less importance. This is the
4 Court acting *sua sponte*. The only part of what you have
5 suggested -- and obviously, I need to look at what you file,
6 but I'm just accepting it at face value and doubt that I'm
7 going to have a problem.

8 You know, one of the problems with the world is, is
9 once you do it, you can't undo it. So I don't think
10 withdrawing them does any good at all. They are there and
11 they're there permanently. Having said that, the focus
12 shouldn't be on whether an exhibit is redacted that isn't
13 going to be used. The focus ought to be on what the
14 substantive relief is that people are arguing with. And that,
15 you're telling me, is going to largely be unredacted.

16 So I'm just going to withdraw that portion of my
17 order that applies to the exhibits for now. We're just going
18 to leave them under seal. If it comes up that maybe they
19 ought to be unsealed, any party can seek to do that, and then
20 you're going to file the other matters largely unredacted, and
21 I suspect that will simply resolve the question. Is that okay
22 with you, Mr. Newcomb?

23 MR. NEWCOMB: That's great, Your Honor. We really
24 do appreciate that, and we will get the redacted versions of
25 the objections on file as quickly as we can.

1 THE COURT: Is there any party that has any
2 objection to that? And if so, I'd particularly like to hear
3 from the Attorney General's Office, as well as the U.S.
4 Trustee's Office, you know, both of whom, like me, should be
5 worried about whether the public has adequate information when
6 they're reviewing documents that are filed. And this seems
7 like a fairly decent way to approach the problem.

8 Ms. Ryan, if you want to speak up. Mr. Statham, if
9 you want to speak up. If somebody thinks we need, you know,
10 something different than that, I'm perfectly willing to hear
11 it. But this is something I raised *sua sponte*. So that
12 doesn't preclude you, but I need to hear from you. Let me get
13 your lines active.

14 I've got Ms. Ryan, you should be authorized now. Go
15 ahead, Ms. Ryan.

16 MS. RYAN: Good afternoon, Your Honor. And for the
17 record, it's Abigail Ryan with the Office of the Texas
18 Attorney General.

19 I think the way that you've handled the redaction
20 issue here is appropriate in this case, and I appreciate the
21 way that you've decided to handle it, Your Honor. I think
22 that's fine.

23 THE COURT: Thank you.

24 Mr. Statham?

25 MR. STATHAM: Thank you, Your Honor. Steve Statham

1 for the U.S. Trustee.

2 We had an opportunity to visit with the UCC counsel
3 and Debtor and are in agreement with the Court's approach in
4 this particular matter. Thanks. Thanks for the opportunity
5 to weigh in.

6 THE COURT: Thank you.

7 Well, then, Mr. Newcomb let's do that. What else --

8 MR. NEWCOMB: Thank you, Your Honor.

9 THE COURT: What else should we try and accomplish
10 today?

11 (No verbal response)

12 THE COURT: All right. Thank you for all the hard
13 work.

14 MS. SPIGEL: I think --

15 THE COURT: And Ms. Spigel, you will contact or have
16 someone contact Ms. Do to get me that material just as soon as
17 it's filed. I know that you're sensitive on time and I
18 promise it will get really quick attention. So, you know, if
19 you file it in the morning, I'll get it done tomorrow
20 afternoon or maybe even tomorrow morning.

21 MS. SPIGEL: Okay. Thank you, Your Honor. We want
22 to make sure Mr. Gibbs gets the vacation, so we'll get it to
23 you as soon as we can.

24 THE COURT: All right. He needs one. Maybe he'll
25 be in a better mood in the next case.

1 (Laughter)

2 THE COURT: All right.

3 MR. GIBBS: I wouldn't miss it.

4 MS. SPIGEL: Thank you.

5 THE COURT: Thank you all. We're in adjournment.

6 MR. GIBBS: Thank you.

7 MS. SPIGEL: Thank you very much.

8 COUNSEL: Thank you, Your Honor. Thank you.

9 THE COURT: Thank you.

10 (Proceedings adjourned at 2:30 p.m.)

11 * * * * *

12 *I certify that the foregoing is a correct transcript*
13 *to the best of my ability produced from the electronic sound*
14 *recording of the proceedings in the above-entitled matter.*

15 */S./ MARY D. HENRY*

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20 DATE FILED: MAY 25, 2021
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